

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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FROM: KATHLEEN ROLLINGS-McDONALD, Acting Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #9: Amendment of Policies for Municipal Service Reviews

In February 2002, the Commission adopted policies related to the consideration of Municipal Service Reviews. One specific element of those adopted policies related to what was defined as “minor sphere amendments”. The staff has utilized these policies to address the sphere updates conducted to date and for the two sphere of influence amendments processed over the past year.

However, during the processing of the sphere of influence amendment for the West San Bernardino County Water District, the question was asked regarding what the Commission defined as “minor sphere amendments” and its relationship to the statutory requirements for service reviews. Special Counsel for LAFCO asked the question: Does Government Code Section 56428 (sphere amendment) require a service review as defined by Government Code Section 56430? The staff’s response at that time was that the Commission took a specific action to require this service review at the request of the District. However, staff and legal counsel have reviewed this question for future applications and have identified that the referenced Code Sections do not statutorily require the conduct of a service review based upon a sphere amendment application (copy of Government Code Section 56428 Sphere amendments attached).

That leaves the question of whether the Commission’s policy determination was to require these service reviews as a supplement to the statutory requirements. Staff has reviewed the minutes from the hearings on the adoption of these policies and they do not provide an answer to that question. The minutes of these hearings indicate the Commission’s concern

that the service reviews be done in a cooperative manner at the least cost to the government agencies. This leads the staff to believe that the policy direction would not support a unilateral requirement for service reviews and, therefore, staff is requesting more definitive direction. The staff's interest in addressing this issue at this time is that two applications for sphere of influence amendments are anticipated to be filed in the near future, one related to the Donut Hole and one related to Baldy Mesa Water District.

Given that the staff does not believe that the Commission intended to universally require a service review for all sphere of influence amendments as defined by Government Code Section 56428, we are providing a draft change in policy language which reflects that direction. The draft policy shows omissions as strike through text, and additions are included as bold, italic type. The staff is proposing to move the outline of the service review procedures (currently included at the end of Policy #33) to follow the policy definitions for a service review contained in Policy #32.

It is the staff's recommendation that the Commission consider the amendments outlined in the attached materials and take one of the following actions:

1. Provide direction to staff to return at a later hearing with additional information addressing this policy;
2. Clarify that it is the Commission's intent to require a service review for all sphere of influence amendments and affirm the existing policy language; or
3. Adopt the proposed amendments, or a modified amendment, and instruct staff to forward notification of the changes to the Cities, Special Districts and the County.

KRM/

Attachments:

1. Modified Policy #33 – Sphere Amendments and Policy #32 – Service Reviews
2. Copy of Government Code Sections 56428, 56430, and 56425
3. February 2002 Staff Report